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ADMINISTRATIVE COMPLAINT

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PRELIMINARY STATEMENT

1. This complaint is filed by Leitaea Lowrimore, through her attorney, pursuant to the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd ("EMTALA"). In February 2026, three hospitals in two states violated EMTALA when they refused Ms. Lowrimore medical treatment necessary to stabilize her emergency medical condition. Specifically, Mercy Hospital in Fort Smith, Arkansas ("Mercy"), Baptist Health in Fort Smith, Arkansas ("Baptist"), and OU Health—University of Oklahoma Medical Center in Oklahoma City, Oklahoma ("OU Health"), failed to provide Ms. Lowrimore treatment to terminate her ectopic pregnancy.

2. Ms. Lowrimore had an ectopic pregnancy, a pregnancy in which a fertilized egg implants in a location other than the inside of the uterus. An ectopic pregnancy is never viable and if not treated promptly, it can be deadly for the pregnant patient. Specifically, an ectopic pregnancy can rupture, causing major internal bleeding and/or death.

3. From the beginning of Ms. Lowrimore's pregnancy in February 2026, it was clear that something was wrong. Her hCG—the pregnancy hormone—was extremely low for weeks, never rising above 151 mIU/mL. She was either miscarrying or had an ectopic pregnancy. Yet over the course of seven days, with escalating symptoms of ectopic pregnancy, she was denied screening or discharged from various emergency rooms *six separate times*. At one emergency room visit in Arkansas, the on-call OB/GYN informed her that if he treated her now, he would face "10 years in the poky."[1] Ms. Lowrimore ultimately traveled back and forth between her home in rural Oklahoma and Fort Smith, Arkansas, then across the state to Oklahoma City, and finally north to Wichita—all with her one-year-old baby in the car—before she finally received the appropriate treatment to terminate her ectopic pregnancy in Kansas, where abortion is legal.

[1] Slag for "jail" or "prison."

4. Ms. Lowrimore's experience is not isolated. Since *Roe v. Wade* was overturned in 2022, there have been numerous reports of delays and denials of pregnancy-related care in emergency rooms in states with abortion bans, including in Arkansas and Oklahoma, even for care that is legal under state law.[2] This is because of the extreme penalties for physicians who violate state abortion bans. In Arkansas, a physician who provides a prohibited abortion faces up to 10 years in prison, loss of medical license, and up to $100,000 in fines. Ark. Code §§ 5-61-304(b), 5-61-404(a), 17-95-409(a)(2)(A), (D), 17-95-303. In Oklahoma, a physician who provides a prohibited abortion faces between two and five years in prison. OSA 21 § 861. Thus, some clinicians have been reluctant to provide medical intervention for a suspected or presumed ectopic pregnancy. Instead, they have forced patients to wait days or weeks and undergo additional testing to confirm and reconfirm the diagnosis.[3] They are doing so out of concern that, if their diagnosis is incorrect, termination would be a prohibited abortion that could result in criminal and civil penalties. Indeed, in a study where nearly forty hospitals across Oklahoma were surveyed after *Roe* was overturned, *not a single hospital* was able to articulate clear or consistent policies for obstetric care post *Roe*.[4] The results for patients are often disastrous.[5]

5. But these concerns do not permit denying patients care in violation of EMTALA. Hospitals cannot justify refusing to terminate ectopic pregnancies by pointing to state abortion

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[2] Amanda Seitz, *Emergency Rooms Refused to Treat Pregnant Women, Leaving One to Miscarry in a Lobby Restroom*, The Associated Press (April 19, 2024), https://apnews.com/article/pregnancy-emergency-care-abortion-supreme-court-roe-9ce6c87c8fc653c840654de1ae5f7a1c.

[3] *See* Daniel Grossman et al., *Care Post-Roe: Documenting Cases of Poor-Quality Care Since the* Dobbs *Decision*, Advancing New Standards in Reproductive Health (Sept. 2024) ("Care Post-*Roe* Report"), https://www.ansirh.org/sites/default/files/2023-05/Care%20Post-Roe%20Preliminary%20Findings.pdf.

[4] Physicians for Human Rights, *No One Could Say: Accessing Emergency Obstetrics Information as a Prospective Prenatal Patient in Post*-Roe *Oklahoma* (Apr. 2023) ("PFHR Oklahoma Report"), https://phr.org/wp-content/uploads/2023/04/Oklahoma-Abortion-Ban-Report-2023.pdf.

[5] *See* Charlotte Huff, *In Texas, Abortion Laws Inhibit Care for Miscarriages*, NPR (May 10, 2022), https://www.npr.org/sections/health-shots/2022/05/10/1097734167/in-texas-abortion-laws-inhibit-care-for-miscarriages.

bans, when such stabilizing care is required under EMTALA for emergency medical conditions. Regardless of concerns about state law, EMTALA forbids hospitals like Mercy, Baptist, and OU Health from refusing stabilizing treatment to patients with presumed or suspected ectopic pregnancies, like Ms. Lowrimore, because such patients' health is in serious jeopardy without immediate treatment.

6. Ms. Lowrimore respectfully requests that the U.S. Department of Health and Human Services Centers for Medicare & Medicaid Services ("CMS") and Region 6 Office investigate Mercy, Baptist, and OU Health's refusal to provide her with emergency medical treatment in February 2026 and issue a finding that Mercy, Baptist, and OU Health violated EMTALA by failing to provide her with stabilizing care. This investigation and finding are necessary to safeguard access to emergency medical treatment for all pregnant Arkansans and Oklahomans who remain at risk that hospitals will deny them care if they experience an emergency medical condition, such as an ectopic pregnancy. Especially in states like Arkansas and Oklahoma that severely criminalize certain pregnancy-related care, enforcing EMTALA's mandates is critical to protect the lives, health, and fertility of pregnant patients.

7. Ms. Lowrimore further requests that, for reasons discussed herein, CMS initiate an independent investigation into this Complaint without referral to the Arkansas or Oklahoma Departments of Health, or, at a minimum, conduct an independent assessment of the facts discussed in this Complaint before reaching its final compliance determination and then promptly communicate that determination to undersigned counsel.

JURISDICTION

8. CMS is responsible for ensuring compliance with EMTALA. The CMS Region 6 Office, based in Dallas, Texas, serves the region that includes Arkansas and Oklahoma, where the Recipients Mercy, Baptist, and OU Health are located.[6]

9. CMS Regional Offices evaluate EMTALA complaints and, for those requiring further investigation, may refer the case to state survey agencies to investigate on CMS's behalf.[7] However, even when a state agency conducts the investigation, CMS Regional Offices "retain delegated enforcement authority and final enforcement decisions are made there."[8] Moreover, administrative decisionmaker CMS Regional Offices are not bound by a state agency's factual findings and may consider additional information to determine whether a facility is in compliance with EMTALA.[9]

10. In certain instances, CMS does not refer alleged EMTALA violations to state survey agencies at all. For example, "CMS refers appropriate cases to the OIG [Office of Inspector General] for investigation."[10] "Appropriate cases" for OIG investigation may include those where, as here, a physician failed to treat or stabilize a patient with a condition that required immediate medical care.[11]

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[6] Ctrs. for Medicare & Medicaid Servs., *CMS Regional Offices*, https://www.cms.gov/Medicare/Coding/ICD10/CMS-Regional-Offices (last visited March 26, 2026).

[7] Ctrs. for Medicare & Medicaid Servs., State Operations Manual, Chapter 5 – Complaint Procedures § 5430.1 (Feb. 10, 2023), https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c05pdf.pdf (hereinafter "SOM Ch. 5").

[8] SOM Ch. 5, Appx. V; *see also id.* (noting that "it is the responsibility of the [Regional Office]" to determine if an EMTALA violation has occurred).

[9] *See* SOM Ch. 5 § 5460 *et seq.*; *see also* SOM Ch. 5 Appx. V (advising state survey agencies that staff should not tell hospitals whether investigation shows an EMTALA violation occurred "since it is the responsibility of the [CMS regional office] to make that determination").

[10] SOM Ch. 5 § 5480.2.

[11] *Id.*

11. Additionally, CMS should not rely solely on a state agency's assessment of the facts in reaching its determination where, as here, the state agency has proven itself to be a biased and therefore inadequate factfinder. Indeed, state officials in both Arkansas and Oklahoma have shown hostility toward interpreting EMTALA as requiring hospitals to provide pregnancy termination to pregnant patients experiencing emergency medical conditions. For example, the Attorneys General for both Arkansas and Oklahoma joined an amicus brief arguing that "EMTALA does not mandate abortions" and "leaves to States the job of deciding whether abortion constitutes appropriate medical care." This brief also argues that hospitals have equal obligations to pregnant people and the embryos/fetuses they carry, and EMTALA "does not allow hospitals to ignore the health of unborn children."[12] Both States' Attorneys General have also opposed attempts via litigation to clarify or block their own abortion bans, even when their citizens' lives were on the line, and made public statements reinforcing their authority and intent to prevent abortions from occurring within and outside their borders.[13]

12. In light of these concerns and events, Ms. Lowrimore requests that CMS and the Region 6 Office conduct an independent investigation of this Complaint, whether by referring this matter to OIG or otherwise. Alternatively, if CMS refers the matter to the Arkansas or Oklahoma Department of Health for investigation, Ms. Lowrimore requests that CMS conduct a full,

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[12] Brief of Indiana and 21 Other States as Amici Curae Supporting Petitioners, *Moyle v. United States*, *Idaho v. United States*, 144 S. Ct. 2015 (2024) (Nos. 23-726, 23-727), 2024 WL 892310, at 7-10.

[13] *See., e.g.*, *infra* at n.25; Respondents' Br., *OCRJ v. Drummond*, 2023 OK 24, 2022 WL 19915087; Defs.' Br. in Support of Mot. For Summ. J., *Waldorf v. Arkansas*, No. 60-CV-26-1539 (Cir. Ct. Pulaski County, filed March 6, 2026); Ark. Att'y Gen. Tim Griffin, *Attorney General Griffin Calls on Congress to Prevent Abortion Pills from Being Shipped to Arkansas, Sends Four Cease-and-Desist Letters* (July 29, 2025), https://arkansasag.gov/news-release/attorney-general-griffin-calls-on-congress-to-prevent-abortion-pills-from-being-shipped-to-arkansas-sends-four-cease-and-desist-letters; Ark. Att'y Gen. Tim Griffin, *Attorney General Griffin Issues Cease and Desist Letters to Abortion Pill Companies Advertising in Arkansas*, (May 21, 2024), https://arkansasag.gov/news-release/attorney-general-griffin-issues-cease-and-desist-letters-to-abortion-pill-companies-advertising-in-arkansas; Letter from Tim Griffin to Leader of the U.S. Congress (July 29, 2025), https://media.ark.org/ag/2025-07-29-Letter-to-Congress-Shield-Laws.pdf.

independent investigation and consider the facts contained in this Complaint before concluding its investigation and determining whether Mercy, Baptist, and/or OU Health complied with EMTALA.

13. Ms. Lowrimore further requests that CMS promptly release the results of their EMTALA investigation pursuant to this complaint to her counsel. Undersigned counsel has been informed by officials at CMS that even where a CMS investigation finds a hospital violated EMTALA by refusing to provide stabilizing care to a patient when such stabilizing care involves terminating a pregnancy, at least some complaints originating in Region 6 are facing significant delays. Specifically, undersigned counsel has been informed that the DOJ must review all potential violations originating in Texas for compliance with court orders related to perceived conflicts between EMTALA and state abortion bans. This is true even for denials of care related to ectopic pregnancy and miscarriage, notwithstanding the fact that such terminations are *excluded from the definition of abortion under Texas law*. And rather than act on such complaints, the DOJ has been sitting on them—for years.[14] Accordingly, Ms. Lowrimore requests prompt release of the results of this investigation before any potential "legal review" by the DOJ.

FACTUAL ALLEGATIONS

A. Ectopic Pregnancy is an Emergency Medical Condition that Requires Stabilizing Treatment

14. Ectopic pregnancy—where the fertilized egg implants and grows in a location other than inside of the uterine cavity—is the leading cause of maternal mortality in the first trimester,

[14] *See* Admin. Compl., *De La Cruz v. Tex. Health Arlington Mem. Hosp.*, U.S. Dep't of Health & Human Servs. (Aug. 6, 2024), https://reproductiverights.org/wp-content/uploads/2024/08/Norris-De-La-Cruz-EMTALA-complaint-2024.pdf. Upon information and belief, this complaint remains pending.

accounting for 5-10% of all pregnancy-related deaths.[15] Ectopic pregnancies often implant in one of the fallopian tubes (a "tubal ectopic"), but may also implant in the scar from a previous cesarean delivery or other locations including the abdominal cavity, the cervix, or an ovary. Ectopic pregnancies cannot result in live births and are life-threatening to the pregnant person; left untreated, the pregnancy will grow and rupture, causing massive internal bleeding. Ectopic pregnancies therefore must be terminated as soon as they are diagnosed.[16]

15. Treatment of a tubal ectopic pregnancy involves either medication or surgery. If an ectopic pregnancy is detected early enough and the patient's vital signs are stable, it is most commonly treated with injection of a medication called methotrexate, which prevents the cells in the pregnancy from continuing to grow.[17] The pregnancy is then absorbed by the body over a couple of weeks and the affected tube returns to normal functioning.

16. If the ectopic pregnancy is not detected early and has grown too large to be treated with methotrexate, the pregnancy must be surgically removed from the fallopian tube. Surgical intervention entails removal of part or all of the affected fallopian tube (salpingectomy) or removal of the ectopic pregnancy while leaving the affected fallopian tube in site (salpingostomy), both of which can result in loss of fertility.[18] For this reason, the leading medical association for OBGYNs, the American College of Obstetricians and Gynecologists ("ACOG"), advises that choice of

[15] Kellie Mullany et al., *Overview of Ectopic Pregnancy Diagnosis, Management, and Innovation*, 19 Women's Health, 1 (2023).

[16] *See* The American College of Obstetricians and Gynecologists ("ACOG"), *Practice Bulletin 193: Tubal Ectopic Pregnancy*, 131 Obstetrics Gyn. e91 (2018) (hereinafter "ACOG Practice Bulletin 193"); Soc'y for Maternal Fetal Med. ("SMFM") et al., *SMFM Consult Series #63: Cesarean Scar Ectopic Pregnancy*, 227 Am. J. Obstetrics Gyn. B9 (2022); ACOG, *Facts Are Important: Understanding Ectopic Pregnancy*, https://www.acog.org/advocacy/facts-are-important/understanding-ectopic-pregnancy.

[17] ACOG, *FAQs: Ectopic Pregnancy* (April 2020), https://www.acog.org/womens-health/faqs/ectopic-pregnancy.

[18] ACOG Practice Bulletin 193 at e98.

treatment options for ectopic pregnancy "should be guided by the patient's clinical status, her desire for future fertility, and the extent of fallopian tube damage."[19]

17. Ectopic pregnancy is diagnosed by a combination of factors: the patient's medical history; ultrasound findings; symptoms, including localized abdominal pain and cramping, abnormal vaginal bleeding, shoulder pain, and dizziness; and serum hCG values.[20] ACOG emphasizes that "Serum hCG values alone should not be used to diagnose an ectopic pregnancy and should be correlated with the patient's history, symptoms, and ultrasound findings."[21]

B. Ms. Lowrimore was Denied Stabilizing Treatment for Ectopic Pregnancy by three Hospitals Across Two States[22]

18. Leitaea Lowrimore is 28 years old and lives in Sallisaw, Oklahoma with her husband and their children. Because Sallisaw is in a rural area of Oklahoma near the Arkansas/Oklahoma border, the closest obstetrical care is located in Fort Smith, Arkansas, approximately a forty-five-minute drive from her home. Ms. Lowrimore routinely travels to Fort Smith for medical care.

19. Ms. Lowrimore has a full and busy life. She and her husband have a 1-year-old daughter together, and the couple shares custody of an 8-year-old and two 10-year-olds from their prior relationships who live with them part-time. Ms. Lowrimore had another pregnancy years ago when she was suffering with addiction and made the decision to relinquish the child with the assistance of an adoption agency that allowed her to choose the receiving family. Ms. Lowrimore

[19] ACOG Practice Bulletin 193 at e99.

[20] ACOG, *FAQs: Ectopic Pregnancy* (April 2020), https://www.acog.org/womens-health/faqs/ectopic-pregnancy.

[21] ACOG Practice Bulletin 193 at e99.

[22] The allegations contained herein are to the best of Ms. Lowrimore's knowledge and recollection.

found the experience extremely painful and emotional, and now, five years into recovery, it is still difficult for her to talk about.

20. Ms. Lowrimore's periods are usually regular but this January, 2026, she was late. Ms. Lowrimore had surgery planned at the end of January to address an injury she sustained during the birth of one of her children. As is standard, she was asked to take a pregnancy test before the surgery and the test was negative. But by February 9, Ms. Lowrimore's period still hadn't come, so she took a drugstore pregnancy test. This time, it was positive. As Ms. Lowrimore would later learn, the medications associated with her surgery may have interfered with her hormonal birth control, causing it to fail.

21. Ms. Lowrimore was initially scared and worried. "I already have so many children to care for, including a one-year-old baby, and I was concerned about having two babies back-to-back." She and her family are on Medicaid and often struggle to make ends meet. Nonetheless, she did not consider terminating the pregnancy.

22. A few days later, she began to bleed and started to experience sharp abdominal pain on one side of her body. She called her OB/GYN and was told to go to the emergency room to get an hCG reading.

23. Ms. Lowrimore visited the emergency room at Mercy Hospital in Fort Smith on February 15 and got her first hCG reading: 74.9 mIU/mL. Only someone newly pregnant, at 4-5 weeks, would expect a reading this low. But Ms. Lowrimore's last period was at the end of December, so she was approximately 8 weeks pregnant. The ER staff performed an ultrasound and informed Ms. Lowrimore she had "a pregnancy of unknown location"—meaning they knew she was pregnant but could not see anything in her uterus. Based on these results, plus her bleeding

and abdominal pain, she knew something was not right. Yet the ER staff at Mercy discharged her and told her to come back for a repeat hCG in a few days or if her symptoms got worse.

24. Ms. Lowrimore suspected there was something else the staff at Mercy was not telling her, and left confused. That night, she did her own internet research and, based on her symptoms and test results, became very concerned that she had an ectopic pregnancy.

25. The next day, February 16, Ms. Lowrimore was still in pain and started passing blood clots. Now suspecting an ectopic pregnancy, she decided to seek a second opinion, this time at the emergency room at Baptist Health Hospital, also in Fort Smith. The ER staff at Baptist took another blood sample and performed another ultrasound: again, they could not find an intrauterine pregnancy on ultrasound and established that her hCH was rising, now 88.3 mIU/ML. They suggested her pregnancy might be ectopic but noted her condition was "not consistent with molar pregnancy, life-threatening coagulopathy, trauma, serious bacterial infection, central process or other emergency." Then, just like at Mercy, the ER staff at Baptist discharged her and told her to come back if or when her symptoms got worse. Ms. Lowrimore knew this was not right but felt she had no other choice but to return home.

26. In the days that followed, Ms. Lowrimore continued bleeding, began to feel dizziness, "seeing stars" whenever she stood up, and the abdominal pain on her left side began radiating up her body. Ms. Lowrimore recognized that these were all symptoms of ectopic pregnancy. "I just knew that what we were going through wasn't normal. I was scared. There were a few times I asked my husband if I was going to die. I kept thinking about our kids. I just knew that we weren't going to stop until we had answers or got the help that we knew we deserved."

27. On February 18, Ms. Lowrimore and her husband got into the car with their one-year-old and drove back to the ER at Baptist. The ER staff took yet another blood sample: her hCG

was now 119 mIU/ML—rising slowly to a plateau, another symptom of ectopic pregnancy. An ultrasound again showed no intrauterine pregnancy but revealed "left adnexal varices and nonspecific trace free fluid the posterior cul-de-sac," which she was told could be an ectopic pregnancy. The ER staff at Baptist, however, again attempted to discharge her with instructions to return when her symptoms were worse, but this time Ms. Lowrimore protested. She explained her fears that the pregnancy was ectopic and that if she did suddenly deteriorate, she would not be able to get back quickly enough because she lives so far away from emergency healthcare.

28. Ms. Lowrimore requested to speak with the on-call OB/GYN, and the two then had a heated exchange. The OB/GYN acknowledged that, more likely than not, her pregnancy was ectopic. Nonetheless, he said "there is not much that we can do" because "there is no definitive emergent findings on the ultrasound currently." The OB/GYN then mentioned a potential exploratory surgery to determine if her pregnancy was ectopic but said he could not do the surgery because Medicaid would not cover it. When Ms. Lowrimore pressed, the OB/GYN said that if he treated her now, he would face "10 years in the poky." Ms. Lowrimore was furious: "I felt like my life was a risk he couldn't afford." Ultimately, the OB/GYN agreed to admit Ms. Lowrimore for observation and said that if her pregnancy ruptured while she was at the hospital, he would then be able to intervene. The OB/GYN also said he would contact Mercy to see if they could give her a different answer.

29. By the following morning, February 19, the OB/GYN at Baptist still had not heard back from Mercy. Ms. Lowrimore was discharged and immediately went to the ER at Mercy.

30. Ms. Lowrimore spent the next *eight hours* waiting to be seen in Mercy's ER. She went through triage and gave a blood sample, but she did not receive her results. At some point,

Ms. Lowrimore told ER staff that the pain was getting worse, but she was told there many other people much sicker than her still waiting to be seen.

31. Eventually, she lost hope that anyone in Arkansas would help her. Ms. Lowrimore and her husband—who were still traveling with their one-year-old—decided to get back in the car and drive to Oklahoma City, three hours away. It was only after leaving Mercy's ER that Ms. Lowrimore received an email with the results from her blood test: her hCG was 114 mIU/mL, she had traces of protein in her urine, and various markers in her blood count were abnormal.

32. Ms. Lowrimore arrived to the ER at the University of Oklahoma late in the day on February 19. Once again, she received blood testing and an ultrasound. Her hCG was now 136.8 mIU/mL and her ultrasound still did not reveal an intrauterine pregnancy. Ms. Lowrimore was seen by an emergency room physician, not an OB/GYN, and explicitly asked for treatment to terminate an ectopic pregnancy. Once again, however, Ms. Lowrimore was told that she was "not in danger at this point" and they would be discharging her with instructions to get a repeat hCG and ultrasound in one week. Ms. Lowrimore began pleading with the ER physician, convinced the pregnancy was ectopic. She asked for methotrexate first, then for diagnostic laparoscopic surgery, both of which the ER physician refused. "You are sending me home to die," Ms. Lowrimore told the doctor. The ER physician noted in her medical chart that "[r]egardless of the unsatisfactory feeling that the patient obviously communicated to me, I do think the patient is stable for discharge." That night, Ms. Lowrimore and her family stayed with a friend in Oklahoma City. "Once again, we left defeated."

33. On the morning of February 20, still in Oklahoma City, Ms. Lowrimore reached out to her boss about her ongoing health crisis. Her boss mentioned that he had seen reporting about this lawsuit challenging Arkansas's abortion ban and he knew someone who knew one of

the plaintiffs: Theresa Van. Shortly thereafter, Ms. Lowrimore spoke to Ms. Van on the phone, and Ms. Van connected Ms. Lowrimore to undersigned counsel, Ms. Duane.

34. After speaking with Ms. Duane, Ms. Lowrimore decided to return to the ER at the University of Oklahoma and demand a consult with the on-call OB/GYN. She received another blood test in the ER: her hCG was now 151.5 mIU/mL. The on-call OB/GYN, however, repeated the recommendation from the day before, saying there was no evidence of a ruptured ectopic and no "need for urgent/emergent laparoscopy." The ER staff was preparing to discharge her yet again when Ms. Lowrimore asked them if lawyers needed to get involved. The ER staff said they would discuss and get back to her.

35. The ER staff returned to her room several hours later to offer an "endometrial aspirate"—a procedure to obtain a sample of tissue from Ms. Lowrimore's uterus. They told her the purpose was to look for pregnancy cells called villi: If villi were present, it would indicate that she was miscarrying an intrauterine pregnancy; if they were not present, it would suggest an ectopic pregnancy and they would recommend methotrexate to terminate. Ms. Lowrimore consented to the procedure.

36. The ER staff performed the endometrial aspirate and did not detect any "obvious" villi. Ms. Lowrimore again requested methotrexate, thinking the medical team would finally be confident diagnosing her pregnancy as ectopic. But the ER staff refused, telling her they needed to wait several days for a pathology report to *confirm* no presence of villi and that she should return in two days for another repeat hCG. "We knew 100% it wasn't in my uterus, so why didn't I qualify then? Why couldn't we get the help? I realized they were just trying to pacify me." Ms. Lowrimore was discharged and her family stayed yet another night in Oklahoma City with friends. Ms. Lowrimore's mother-in-law drove up to Oklahoma City to help them care for their 1-year-old.

37. On the morning of Saturday, February 21, Ms. Lowrimore felt defeated. “I was ready to give up, but my husband insisted we keep trying, that he couldn’t lose me.” Ms. Duane provided Ms. Lowrimore with the name and address for Welsey Medical Center, a hospital in Wichita, Kansas, and gave Ms. Lowrimore the cell phone number for the chief OB/GYN: the two spoke on the phone and after the OB/GYN assured Ms. Lowrimore that a team of physicians would be waiting for her to provide urgent evidence-based care at their facility, Ms. Lowrimore and her family packed up the car again and drove three hours north to Wichita.

38. When Ms. Lowrimore arrived at Wesley Medical Center, the staff was waiting: they immediately checked her in, admitted her, and did another ultrasound and round of blood tests. Within three and a half hours of arrival, the staff had diagnosed Ms. Lowrimore with an ectopic pregnancy and administered two shots of methotrexate. “I bawled. I felt like a weight had been lifted off my shoulders. They did—in three and a half to four hours—what I’d been searching for for a week.” Ms. Lowrimore and her husband spent the night in the hospital so she could be observed while her mother-in-law and baby slept in a nearby hotel.

39. The next day, Ms. Lowrimore and her family finally returned home to Sallisaw. She has since recovered physically but remains traumatized by the experience. She wants other pregnant people to know “That if they feel something’s wrong when they go in and they don’t get the answer, they deserve to keep fighting because you know your body as a woman better than that doctor standing across from you.”

40. Ms. Lowrimore is terrified to be pregnant again because she feels she would need to go all the way back to Kansas again in the event something went wrong.

LEGAL ALLEGATIONS

41. Congress enacted EMTALA in 1986 to "provide an 'adequate first response to a medical crisis' for all patients." *Baber v. Hosp. Corp. of Am.*, 977 F.2d 872, 880 (4th Cir. 1992) (quoting 131 Cong. Rec. S13904 (daily ed. Oct. 23, 1985) (statement of Sen. Durenberger)). Any hospital that has an emergency department and receives Medicare funds is subject to EMTALA's requirements. 42 U.S.C. § 1395cc(a)(1). Because Mercy, Baptist, and OU Health operate emergency departments and participate in Medicare, they are subject to EMTALA.[23]

42. Under EMTALA, when an individual "comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide "such treatment as may be required to stabilize the medical condition" or transfer the individual to another medical facility. 42 U.S.C. § 1395dd(b)(1). EMTALA defines "emergency medical condition" as "a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part." *Id.* § 1395dd(e)(1).

43. Patients who are determined to have an "emergency medical condition" must receive stabilizing care within the hospital's capabilities. "'[T]o stabilize'" is defined as "to

[23] Each hospital operates an emergency room. *See* Mercy, *Mercy Emergency Department—Fort* Smith, https://www.mercy.net/practice/mercy-emergency-department-fort-smith/ (last visited March 27, 2026); Baptist Health, *Baptist Health Fort Smith Emergency Department*, https://www.baptist-health.org/find-care/location/Baptist-Health-Fort-Smith-Emergency-Department (last visited March 27, 2026); OU Health, *OU Health University of Oklahoma Medical Center—Emergency Department*, https://www.ouhealth.com/find-a-location/university-of-oklahoma-medical-center-emergency-/ (last visited March 27, 2026). Each hospital also participates in Medicare. *See* Mercy, *Medicare Coverage Options*, https://www.mercy.net/service/seniors-primary-care/medicare-coverage-options/ (last visited March 27, 2026); Baptist Health, *Insurance Information*, https://www.baptist-health.org/resources/billing-insurance-financial-assistance/insurance-information (last visited March 27, 2026); OU Health, *Scope of Health Plan Participation—All Entities*, https://www.ouhealth.com/documents/2025.09.23_Health-Plan-Participation-Summary-ALL-Updated.pdf (last visited March 27, 2026).

provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during" the patient's discharge or transfer. 42 U.S.C. § 1395dd(e)(3)(A). Although hospitals may admit a patient "as an inpatient in good faith in order to stabilize the emergency medical condition," 42 C.F.R. § 489.24(d)(2)(i), EMTALA "requires more than the admission and further testing of a patient; it requires that actual care, or treatment, be provided as well," *Moses v. Providence Hosp. and Med. Ctrs., Inc.*, 561 F.3d 573, 582 (6th Cir. 2009).

44. An ectopic pregnancy is an emergency medical condition requiring stabilization under EMTALA. As discussed above, ectopic pregnancies are never viable and, without treatment, can rupture or burst. Rupturing or bursting can lead to major internal bleeding, removal of the fallopian tube(s), and death. The absence of medical treatment for an ectopic pregnancy can "reasonably be expected to result" in (1) placing the health of the pregnant patient "in serious jeopardy," (2) as well as causing "serious impairment to bodily functions," and (3) "serious dysfunction of any bodily organ or part." *See* 42 U.S.C. § 1395dd(e)(1).

45. Mercy, Baptist, and OU Health all violated EMTALA when they failed to screen and/or discharged Ms. Lowrimore without providing her the stabilizing care necessary to terminate her ectopic pregnancy. Mercy allowed Ms. Lowrimore to languish in the ER on February 19 for eight hours without proper screening knowing—both from her prior visit to Mercy on February 15 and from the calls their staff received from Baptist—that Ms. Lowrimore was either having a miscarriage or an ectopic pregnancy and needed urgent care. Baptist, meanwhile, refused Ms. Lowrimore treatment in their emergency room on both February 16 and February 18, knowing that Ms. Lowrimore's hCG had plateaued and that she was showing other signs of ectopic pregnancy, including bleeding, localized pain, and dizziness. Baptist's on-call OB/GYN even acknowledged

that he would have treated her if was not afraid of landing in prison. Instead, Baptist admitted Ms. Lowrimore *after* denying her care in the emergency room and proceeded to do nothing for several hours before discharging her once again.

46. Most egregiously, OU Health refused Ms. Lowrimore treatment in their emergency room on both February 19 and February 20, when the signs and symptoms of ectopic pregnancy could not have been more clear, and despite Ms. Lowrimore's repeated requests for life-saving termination. Rather than provide that care, on her second visit to OU Health, emergency room staff provided a diagnostic procedure to confirm she had no intrauterine pregnancy, meaning the pregnancy had to be ectopic. But even after the test provided such confirmation, they still refused to terminate her pregnancy, saying they needed to wait *a week* for pathology to confirm what they already knew: that the pregnancy was not intrauterine.

47. Troublingly, this is not the first time an EMTALA complaint has been filed against OU Health for refusing abortion care to a patient with a life-threatening pregnancy. In 2023, Jaci Statton was denied abortion care to terminate a partial molar pregnancy, yet for reasons that are unclear, CMS found no EMTALA violation in that case.[24] It is thus perhaps unsurprising that denials of care have continued at OU Health.

48. Mercy, Baptist, and OU Health all had the capacity to provide stabilizing care to Ms. Lowrimore and their staffs never suggested otherwise, yet none would agree to provide that care. Were it not for Ms. Lowrimore and her family and friends' persistence, Ms. Lowrimore could easily have died or lost her fertility somewhere on the rural stretches of highway throughout

[24] *See* Admin. Compl., *Statton v. OU Health*, U.S. Dep't of Health & Human Servs. (Sept. 12, 2023), https://reproductiverights.org/wp-content/uploads/2023/09/Jaci-Statton-Emtala-Complaint-FINAL-SUBMITTED.pdf; Caroline Kirchner, *She Filed a Complaint After Being Denied an Abortion. The Government Shut Her Down*, Washington Post (Jan. 19, 2024), https://www.washingtonpost.com/politics/2024/01/19/oklahoma-abortion-emtala/.

Oklahoma and Arkansas. All of the hospitals that examined Ms. Lowrimore knew this was a risk and did nothing to protect her. Instead, the hospitals continued to recommend more hCG tests. Two or three hCG readings are more than enough to diagnose miscarriage or ectopic pregnancy. Yet by the time Ms. Lowrimore received methotrexate, she already had *six* hCG readings showing a clear pattern consistent with ectopic pregnancy.

49. Moreover, Ms. Lowrimore was told again and again to go home and only return if her symptoms got worse. The notes in Ms. Lowrimore's medical chart at Baptist state that her condition was "not consistent with molar pregnancy, life-threatening coagulopathy, trauma, serious bacterial infection, central process or other emergency," perhaps a reference to the kind of severe emergencies Baptist believed would qualify for an emergency abortion under Arkansas law. Ms. Lowrimore was already bleeding and seeing stars every time she stood up. It begs the question, how much worse did Ms. Lowrimore's condition need to be, and how close should she had been to rupture and/or death, before the hospitals would agree to provide standard emergency medical care?

50. Although not required to support a determination that Mercy, Baptist, and/or OU Health violated EMTALA based on the above facts, terminating Ms. Lowrimore's ectopic pregnancy was legal under both Arkansas and Oklahoma law.

51. Arkansas's abortion ban explicitly excludes from the definition of prohibited abortion acts performed to "[r]emove an ectopic pregnancy." Ark. Code §§ 5-61-303(1)(B), 5-61-403(1)(B). As Ms. Lowrimore's experience shows, however, excluding removal of an ectopic pregnancy from the definition of prohibited abortions does not provide adequate guidance to physicians regarding when and how to diagnose an ectopic pregnancy to avoid criminal liability.

52. While Oklahoma's abortion ban does not explicitly exclude treatment for ectopic pregnancy, other State authorities have addressed the issue. The Oklahoma Attorney General has issued non-binding guidance stating that the abortion ban does not apply to ectopic pregnancy treatment, and the Oklahoma Supreme Court has stated that the Oklahoma Constitution protects the right to abortion to preserve a patient's life, broadly construed.[25] And based on Ms. Lowrimore's experience at the largest academic health system in Oklahoma, the State's reassurance so far appears insufficient.

53. To prevent further danger to pregnant patients' health, lives, bodily functions and organs, it is critical that EMTALA be enforced against hospitals like Mercy, Baptist, and OU Health that refuse to provide stabilizing treatment for the emergency medical condition of ectopic pregnancy. That is true even if state law were to indicate that such treatment was unlawful, but that issue need not be decided here because the treatment Ms. Lowrimore sought was apparently *lawful* under Arkansas and Oklahoma law. Enforcing EMTALA in these circumstances would help ensure that hospitals in Arkansas and Oklahoma are appropriately concerned that *refusing* stabilizing treatment for patients with ectopic pregnancies would risk investigations, penalties, and liability.

54. The need for enforcement is urgent because Ms. Lowrimore's mistreatment is not an isolated incident. Studies show that physicians are undertaking additional documentation and consultations with other physicians before providing care to patients with ectopic pregnancies to ensure their medical judgment will not be second-guessed by state officials.[26] These additional steps have resulted in delays and refusals in care. A study of the impact of Oklahoma's abortion

[25] September 12, 2025 Memorandum from Oklahoma Attorney General, Guidance for Oklahoma physicians following *Dobbs v. Jackson Women's Health Org.*, *OCRJ v. Drummond*; November 21, 2023 Memorandum from Oklahoma Attorney General, Guidance for Oklahoma law enforcement following *Dobbs v. Jackson Women's Health Org.*, *OCRJ v. Drummond*, and *OCRJ v. Oklahoma*; *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d at 1130, 2023 OK at ¶ 9.

[26] Care Post-*Roe* Report at 10.

ban on obstetric care in hospitals found wildly inconsistent understandings about the law, including one hospital that described termination of ectopic pregnancy as the only exception to the abortion ban, with most hospitals failing to mention ectopic pregnancy on their websites at all.[27] A similar study in Louisiana showed that patients presenting to the hospital with ectopic pregnancies were often required to delay treatment for a day, then return the next day because, as a doctor opined, they "need to prove beyond a very reasonable doubt that the bad thing is happening."[28]

55. This situation is untenable and warrants swift investigation and a determination that Mercy, Baptist, and OU Health's failure to provide emergency treatment for Ms. Lowrimore's ectopic pregnancy violated EMTALA.

RELIEF REQUESTED

56. Ms. Lowrimore respectfully requests that CMS and/or HHS OIG:

a. Conduct an independent investigation of Mercy, Baptist, and OU Health for EMTALA violations arising from their refusal to provide her with necessary stabilizing treatment to preserve her life, health, bodily functions, and bodily organs;

b. Take all necessary steps to remedy all unlawful conduct identified in its investigation, including by imposing all appropriate penalties;

c. Monitor any resulting agreements between CMS and Mercy, Baptist, and OU Health to ensure compliance with EMTALA; and

d. Provide other appropriate equitable relief.

[27] PFHR Oklahoma Report at 9, 14.

[28] Physicians for Human Rights, et al., *Criminalized Care: How Louisiana's Abortion Bans Endanger Patients and Clinicians* at 28 (Mar. 2024), https://phr.org/wp-content/uploads/2024/03/PHR-Report-Criminalized-Care-March-2024.pdf.

Respectfully submitted,

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Date: April 9, 2026